



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-100276-97]

RIN 1545-AU94

Financial Asset Securitization Investment Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking relating to financial asset securitization trusts (FASITs). The FASIT provisions (sections 860H through 860L) of the Internal Revenue Code (Code) were repealed by Public Law 108-357, effective January 1, 2005, with a limited exception for existing FASITs.

FOR FURTHER INFORMATION CONTACT: Julianne Allen at (202) 622-3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

**Background**

Section 1621(a) of the Small Business Job Protection Act of 1996, Public Law 104-188 (110 Stat. 1755 (1996)), amended the Code by adding part V (sections 860H through 860L) (the FASIT provisions) to subchapter M of chapter 1. Part V, which was effective September 1, 1997, authorized a securitization vehicle called a Financial Asset Securitiza-

tion Investment Trust (FASIT). FASITs were meant to facilitate the securitization of debt instruments, such as credit card receivables, home equity loans, and auto loans.

Proposed regulations providing guidance with respect to the application of the FASIT provisions were published in the **Federal Register** on February 7, 2000 (65 FR 5807). (Section 1.860E-1(c) of the proposed regulations, governing the transfer of non-economic REMIC residual interests, was finalized on July 18, 2002, in T.D. 9004.) In general, the proposed regulations pertaining to FASITs are proposed to be applicable on the date final regulations are filed with the **Federal Register**. The portion of the proposed regulations containing an anti-abuse rule and the portion of the proposed regulations implementing special transition rules for securitization entities in existence on August 31, 1997, were proposed to apply on February 4, 2000.

The FASIT provisions were repealed by section 835(a) of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418 (2004)), effective January 1, 2005. During the period of legislative consideration of the FASIT provisions and subsequently, other structures for loan securitizations were developed. In its discussion of the reasons for the repeal of the FASIT provisions, the Ways and Means Committee stated:

The Committee is aware that FASITs are not being used widely in the manner envisioned by the Congress and, consequently, the FASIT rules have not served the purposes for which they originally were intended. Moreover, the Joint Committee staff's report [on its investigation of Enron Corporation and related entities] and other information indicate that FASITs are particularly prone to abuse and likely are being used to facilitate tax avoidance transactions.

H.R. Rep. No. 108-548, Pt. 1, at 295 (2004) (footnote omitted).

In light of the repeal of the FASIT provisions and their limited use, the Treasury Department and the IRS have decided to withdraw the proposed regulations.

### **Drafting Information**

The principal authors of this withdrawal notice are Richard LaFalce and Julianne Allen of the Office of the Associate Chief Counsel (Financial Institutions and Products).

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirement.

### **Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-100276-97) published in the **Federal Register** on February 7, 2000 (65 FR 5807) is withdrawn.

Steven T. Miller,  
Deputy Commissioner for Services and Enforcement.